

BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A JUDGE
NO. 02-466, JUDGE JOHN RENKE, III

SC03-1846

MOTION FOR MORE DEFINITE STATEMENT

COMES NOW, the Honorable John Renke, III, by and through his undersigned counsel and files this his Motion for More Definite Statement, pursuant to Florida Judicial Qualification Commission Rule 12(a) and Florida Rule of Civil Procedure 1.140(e) and requests the Investigative Panel to provide the factual basis supporting consideration of the judge's suspension pending the disposition of the charges. In support, the judge sets forth the following information:

1. On February 23, 2005, the Investigative Panel issued its Order to Show Cause requiring the judge to show cause "why it should not recommend to the Supreme Court of Florida that you be suspended from office without compensation while the inquiry that is the subject of the Amended Notice of Formal Charges served herein is pending."

2. The Order to Show Cause did not advise the judge of the facts and circumstances that would warrant suspension with or without compensation prior to the entry of factual findings and recommendations by the Hearing Panel.

3. Suspending a judge prior to a final determination by the hearing panel is “one of the strongest measures the Court may take to protect the integrity of the judiciary from judges who demonstrate a present unfitness to hold office.” In re Inquiry Concerning a Judge (Shenberg), 632 So. 2d 42, 45 (Fla. 1992). Suspending a judge without compensation has only been utilized when the judge has either been convicted of criminal conduct or there is alternative reliable indication that the judge has committed criminal acts.

4. Indeed, the Florida Supreme Court has only suspended three judges without compensation prior to the JQC’s making its factual findings. See In re Concerning a Judge (Shenberg, Sepe), 632 So. 2d 42, 45 (Fla. 1992); In re Concerning a Judge (Smith), 347 So. 2d 1024 (Fla. 1977). Each of these cases involved criminal conduct that had been substantiated by a federal conviction or a federal indictment. In Smith, the JQC suspended the judge without compensation after the judge was convicted of federal

drug trafficking even though his conviction occurred prior to the JQC's entry of factual findings.

5. In Shenberg and Sepe, the JQC suspended the judges without compensation pending disposition of the formal charges after the judges were federally indicted on serious charges directly impacting their judicial duties. Although the judges had not been convicted, the Florida Supreme Court considered the grand jury indictment to “carry an indicia of reliability.” Shenberg at 46 (distinguishing the return of a grand jury indictment from the mere filing of a criminal information).

6. In addition, the Court found it was necessary to suspend former judges Shenberg and Sepe in order to “protect the public confidence in the judiciary's integrity.” Shenberg at 46. Both judges were indicted on charges that struck at the heart of judicial ethics. Specifically, the indictment charged that these judges had committed the following conduct on various occasions:

corruptly requesting, soliciting, accepting or agreeing to accept pecuniary benefit to influence the performance of their judicial duties, conspiring with others to improperly affect the outcome of court cases assigned to other judges, and participating in ex parte communications and financial transactions with defense attorneys appearing in cases before them.

Shenberg at 44. Further, former Judge Shenberg was also indicted on charges that he “participated in a conspiracy to commit the murder of a confidential informant.” Id. Clearly, these charges as found by a grand jury would warrant quick action by the JQC to relieve the judges of their duties, even though a final evidentiary hearing had not been conducted.

7. In contrast to the conduct by former judges Smith, Shenberg and Sepe, neither the Notice of Formal Charges nor the Amended Notice of Formal Charges filed in this case allege conduct that could conceivably justify a suspension without compensation pending final disposition. As such, the judge respectfully requests the Investigative Panel to provide notice of the conduct that the Panel contends demonstrates Respondent’s present unfitness to hold office. Moreover, Respondent requests the Investigative Panel to disclose the Panel’s basis for finding that any such allegations carry “an indicia of reliability” warranting suspension without a final evidentiary hearing before the Hearing Panel.

WHEREFORE and by reason of the foregoing, the judge requests the Investigative Panel to provide a more definite statement notifying the judge

of the conduct that could justify suspension with or without compensation prior to an evidentiary hearing on the merits of the charges.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of March, 2005, the original of the foregoing Motion for More Definite Statement has been furnished by Federal Express overnight delivery to:

Honorable Thomas D. Hall
Clerk, Supreme Court of Florida
500 South Duval Street
Tallahassee, Florida 32399-1927

with copies by U. S. Mail to:

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